

TOWN OF NORTHFIELD, VERMONT
SELECT BOARD REGULAR MEETING
Minutes of January 12, 2021

- I. ROLL CALL.** Select Board Chair K. David Maxwell, Board members Julie H. Goodrich, Nathaniel Miller, Charles Morse, and John Stevens. Also present were Town Manager Jeff Schulz, Acting Clerk Kenneth McCann, Anne Donahue (State Representative), Kenneth Goslant (State Representative), Rory Thibault (Washington County State's Attorney), John Helfant (Northfield Police Chief), Eric Blaisdell (*Times Argus*), Lawton Rutter (Northfield Ambulance Chief), Lynn Doney (Northfield Ambulance), Chris Golder (Northfield Ambulance), Patrick Amell, Jennifer Anthony, Melinda Appel, Christopher Baning, Natasha Baning, Christine Barnes, Rachel Best, Gordon Bock, Katie Boyd, Colin Bright, Rowly Brucken, Kristi Cooley, Colin Crawford-Stempel, Steve Davis, Patrick DeMasi, Bonnie Donahue, Dennis Donahue, Shannon Doney, Will Eberle, Jason Endres, Mark Fournier, Paulette Gagne, Jill Goodrich, Laura Hill-Eubanks, Briana Howard, Ann Plourde Jennings, David Jennings, Catherine Johnston, Alan J. Keays, Bob Keeley, Jodi Leonard, Matt Lipschutz, Michael Macijeski, David MacMartin, Jennifer O'Dell, Lisa Page, Shannon Palone, Sophie Patenaude, Kim Pedley, Lydia Petty, Laurie Beth Putnam, Merry Shernock, Sharon Smith, Carolyn Stevens, Susan Stillinger, Tim Swartz, Amanda Zoecklein, and Deborah Zuaro.

Chair Maxwell called the meeting to order at 7:00 p.m. In keeping with Governor Phil Scott's COVID-19 "stay at home" directive, the meeting was held remotely.

II. PUBLIC PARTICIPATION (SCHEDULED)

- a. State Representatives Anne Donahue and Kenneth Goslant.** Northfield's representatives in the Vermont State Legislature were asked to address the Select Board members regarding the new legislative session. Representative Goslant said he has been returned to the House Judiciary Committee and will serve as its Clerk in the upcoming session. He added that due to the COVID-19 pandemic, much of legislative session to date has been spent on getting things organized regarding remote meetings, etc. Representative Donahue said she will be serving as Vice-Chair of the House Health Care Committee, which will be focusing on the current upsurge in COVID-19 infections, hospitalizations, etc. There will be a hearing tomorrow that will provide updates on state funds spent to date on the pandemic, the possibility of new federal funding, etc. There also will be a discussion of perhaps providing funds to Vermont municipalities to cover the added expense of holding the annual Town Meeting during a pandemic. This might cover the expense of sending absentee ballots to all residents, perhaps delaying Town Meeting for a few months, etc. Both Representative Donahue and Representative Goslant were appreciative of the invitation to address the Select Board members tonight and pledged to return and provide periodic updates at future meetings. This would be in addition to the written reports they each provide on alternative weeks on the Front Porch Forum, in the *Northfield News*, etc. The Select Board members had no questions at this time but looked forward to future updates.

III. INFORMATIONAL HEARING

- a. Northfield Police Department Concerns.** Chair Maxwell first read through the Select Board approved "Procedures for Public Participation," which sets guidelines for allowing members of the public to take part in the meeting in a respectful and expeditious manner. This includes limiting remarks to the issue being considered, refraining from personal attacks, and not speaking for more than five (5) minutes without permission from the Select Board Chair. In addition, no one may speak more than once until all others have had the opportunity to speak.

Chair Maxwell noted both State's Attorney Rory Thibault and Northfield Police Chief John Helfant were present tonight. The issue under discussion tonight is a letter sent by State's Attorney Thibault to the Town of Northfield on December 1, 2020 in which he stated that his office would not prosecute most cases in which Chief Helfant would be a testifying witness. This is due to his concern that Chief Helfant may have falsely claimed in affidavits and/or sworn testimony that he received consent for body and/or vehicle searches in two (2) separate cases in which drugs were subsequently discovered. Both these cases occurred before Chief Helfant was hired by the Town of Northfield in October 2018 after twenty-eight (28) years serving in the Vermont State Police and six (6) months with the Berlin Police Department.

State's Attorney Thibault said that the letter issued is sometimes called a Brady or Giglio disclosure due to separate US Supreme Court rulings that a defendant is denied due process whenever a prosecutor withholds exculpatory evidence, which could include possible perjured testimony, suggestions of unreasonable search and seizure, etc. State's Attorney Thibault said he used US Department of Justice standards before determining Chief Helfant's previous actions warranted sending this letter. He noted his office has sent about six (6) such letters regarding local law enforcement officers during his tenure. Although most of the officers who were the subjects of these letters no longer serve in law enforcement, State's Attorney Thibault said there is no reason Chief Helfant cannot remain employed as Northfield's Chief of Police. He added that in such cases, it is his obligation to err on the side of caution in order to prevent miscarriages of justice. Prosecutorial discretion is his right as an elected State's Attorney.

State's Attorney Thibault noted his office would still prosecute cases in which Chief Helfant was involved provided the case was not dependent upon his testimony or on evidence obtained by a search he conducted personally. State's Attorney Thibault said successful prosecution relies on proving a defendant's guilt "beyond a shadow of a doubt" and it is questionable whether this standard can be achieved when the attesting police officer's own credibility is in doubt. He added police actions associated with the origins of the Black Lives Matter movement have made potential jurors perhaps even more skeptical on whether to trust police officers with credibility issues.

State's Attorney Thibault noted in most Vermont communities, the Police Chief serves primarily in a supervisory capacity and rarely becomes directly involved in traffic stops, drug searches, etc. Therefore, Chief Helfant probably won't be too hindered in his normal work performance because of the letter. However, State's Attorney Thibault has learned of recent staffing issues in the Northfield Police Department due to military deployment and he is concerned this might result in Chief Helfant taking a more active role in patrol duties, etc. He then emphasized that despite news reports to the contrary, he doesn't hold any personal animus towards Chief Helfant and is not trying to get him dismissed from his position. State's Attorney Thibault said he has had several recent conversations with Chief Helfant regarding the current situation. He is pleased to see that Chief Helfant has instilled in his officers the need to get written consent for a search of a subject, which is a higher level of procedure. State's Attorney Thibault noted State of Vermont jurisprudence has a higher standard for proving search consent than the federal government or most other states. This is something emphasized in the Vermont State Constitution as its framers were anxious about protecting citizens from illegal searches, overreaching government intrusion, etc. Despite the concerns that resulted in the sending of the letter, State's Attorney Thibault believes he can still work with Chief Helfant on a professional basis as both of them care greatly for the Northfield community. Chair Maxwell then thanked State's Attorney Thibault for stating his positions.

As he has maintained before, Chief Helfant said even though the body camera footage did not record the event fully, he did obtain search consent from the male passenger (Carlos Inostroza) for the search of his vehicle and belongings. Cocaine and marijuana were found in Mr. Inostroza's backpack and bags of heroin later discovered nearby. Chief Helfant noted that although the body cam footage doesn't clearly show Mr. Inostroza's consent, it does show the consent provided by the vehicle's female driver. Although he understands why State's Attorney Thibault's office investigated whether search consent actually was provided due to the faulty body cam footage, Chief Helfant is adamant that he did not lie in his affidavit. Detective Sergeant Richard Desany of the Vermont State Police afterwards was tasked with investigating whether or not Chief Helfant obtained search consent in this case. The female driver testified in the investigation that she and Mr. Inostroza spoke before being stopped by Chief Helfant. She agreed she would provide consent for searching the backpack and vehicle provided Mr. Inostroza paid her for taking responsibility for any drug charges. Mr. Inostroza confirmed this scenario to Detective Sergeant Desany and also testified he also provided search consent to Chief Helfant. Therefore, it was Detective Sergeant Desany's conclusion that there was proper search consent in this case. In conclusion, Chief Helfant said he still believes he and State's Attorney Thibault can find a path to work together for the betterment of Northfield and Washington County.

Chair Maxwell then opened the meeting for public comment. He noted that since this is a personnel matter, there is a fine line regarding what can and cannot be disclosed in a public setting. He also asked that all questions be directed to him first as meeting chair.

Rowly Brucken is a Professor in the Norwich University History Department. He also has served on the Northfield Restorative Justice Panel for several years and was a member of the Northfield Police Chief Search Committee in 2017. He felt it was good to discuss this matter with a respectful dialogue that recognized the seriousness of possible police misconduct. Mr. Brucken asked if this Brady/Giglio letter would inhibit Chief Helfant from doing his job properly and whether having such a letter attached to its chief would reflect poorly on local law enforcement. Manager Schulz understands why State's Attorney Thibault felt a professional obligation to inform the Town of Northfield of his concerns in this manner. However, Manager Schulz agrees with State's Attorney Thibault and Chief Helfant that they can still work together within certain parameters. Chief Helfant agreed with this assessment and would be sure that all local cases forwarded to State's Attorney Thibault's office would include additional documentation if he thought it necessary. As for the impact on the local police force, Board member Morse believes a "Scarlet Letter" has been attached to the Northfield Police Department. He feels this is a bad situation for Northfield and needs to be resolved. Board member Morse said he doesn't fully understand this matter himself as the initial communications received from State's Attorney Thibault's office were full of legalese and language that seemed contradictory. Chair Maxwell said this situation is a process that the Select Board members must work through and some factfinding still needs to be done.

Laura Hill-Eubanks noted the fact that in the two (2) separate cases in which Chief Helfant has been accused of conducting an improper search, both the main defendants were persons of color. She asked if this indicated racial bias in Chief Helfant's work history and whether the Town of Northfield might be subject to civil litigation if a pattern of racial profiling or other such misconduct is found to exist here. Ms. Hill-Eubanks noted how it has been said tonight that the Brady/Giglio letter might be worked around but she wondered if this should even be attempted. State's Attorney Thibault did not feel racial profiling questions were relevant to this discussion. He does believe that Chief Helfant has been seen to be proactive in combating any possible racial bias among his officers under his command. Chief Helfant said in both the Inostroza and Parsons cases there was no way for him to know the race of the suspect before making the stops and approaching the vehicles. He added that of the 1,124 persons he has arrested during his law enforcement career, only twenty-seven (27) were members of minority groups. This percentage is well below state demographics for non-white residents. Chief Helfant added he worked eighteen (18) years out of the Royalton State Police barracks and spent much of that time patrolling the interstate highways, which can be expected to have much out-of-state traffic. Of the 5,090 vehicles he stopped in his career there, in 4,871 stops the driver was white. He also worked night shifts for much of this period and noted it would be impossible for him to know the race of the driver before pulling them over in this circumstance. Therefore, Chief Helfant believes his nearly thirty (30) year career in law enforcement provides no evidence of any racial bias.

Gordon Bock asked about the timeline of Detective Sergeant Desany's investigation. Chief Helfant said Detective Sergeant Desany was tasked by Vermont Attorney General T.J. Donovan to look into this matter in August 2019. Chief Helfant said he did not see the results of this investigation until November 2020, which is when he learned of this not directly but in news media reports. Mr. Bock asked if Chief Helfant believes this investigation clears him of the allegations of improper searches. Chief Helfant believes the testimony provided regarding the Inostroza case did confirm what he has said from the beginning in that he did receive consent to search even though this is not documented by the body camera footage. The other case (Parsons) involved many complex matters in state law in which Chief Helfant was not directly involved. Although he feels he could have done things differently in retrospect, such as getting permission for the body search in writing, Chief Helfant doesn't feel he did anything wrong or violated the subject's rights. He noted that there was a time when sworn testimony from a police officer was sufficient to convince a jury but now it seems that video evidence or a signed statement by the accused is required.

Shannon Doney said this meeting appears to question whether the Brady/Giglio letter should have been sent in the first place. That seems a moot point now that the letter has been sent and it is now necessary to determine what can be done now and whether the letter bears the risk of possible municipal liability. Manager Schulz said he and the Select Board members need to review all aspects of this situation in the context of a personnel matter, which means there are some confidentiality concerns. However, when a decision has been made, it will be communicated in a public statement.

Merry Shernock asked if this matter is still being reviewed by the state and if Chief Helfant remains restricted to administrative duties. Chief Helfant said the matter now is under review by the Criminal Justice Training Council to determine if there have been any violations of its code of conduct. Chief Helfant doesn't believe he has committed any violations. He added that due to the aforementioned shortfall in his department's staffing, he has taken a more active role in taking patrol shifts. This will continue until the officers return from their military service or he has been able to hire sufficient part-time officers. State's Attorney Thibault said the letter sent doesn't preclude Chief Helfant from working as a police officer but there will be a case-by-case determination on whether to prosecute any arrests in which he has been directly involved.

Mark Fournier believes the local population has been overly hard regarding its police force in recent years. He doesn't believe Chief Helfant has been found guilty of any wrong-doing and yet he is being punished for judgement calls that were based on his law enforcement experience. Perhaps he could have done a better job of documenting search consent in these cases but that is a hindsight call. State's Attorney Thibault said he appreciated the difficult service performed by law enforcement officers but he felt having Chief Helfant directly involved in drug cases would open the door to defense attorneys raising questions about his credibility. State's Attorney Thibault agreed that there was a serious drug problem in Central Vermont but despite the strong public desire to put dealers away, the rule of law must be maintained as this protects all citizens.

Colin Bright asked if the Select Board members have spoken directly to State's Attorney Thibault before. Chair Maxwell said there was recent interaction during the executive session held as part of the Select Board's special meeting of January 5, 2021. Mr. Bright asked what was the percentage of Northfield cases that involve traffic stops and/or drugs. Chief Helfant could not provide an exact figure. He did note that most drug seizures occur at suspects' residences after search warrants have been granted by judges. Therefore, there is documented legal review before the search is conducted. Chief Helfant noted most local cases involved domestic or simple assault. Most arrests after traffic stops involve driving under the influence or driving with a suspended license.

State's Attorney Thibault said Northfield provided about five percent (5%) of the Washington County legal caseload with a mixed load of offenses. The bulk of their drug cases come from the larger municipalities of Montpelier and Barre. He added that it is rare to have a Police Chief as the main arresting officer in a criminal case and he believes Chief Helfant has only presented three (3) such cases during in his time in Northfield.

Mr. Bock remembers the Select Board members at the time were very critical of former Police Chief James Dziobek for spending most of his time in the Police Station focusing on administrative matters rather than going out on traffic patrols, etc. It is strange Chief Helfant has not faced similar criticism from current Select Board members. He then asked State's Attorney Thibault if Detective Sergeant Desany's report cleared Chief Helfant of wrongdoing in these two cases. State's Attorney Thibault felt the Desany report only indicated there was insufficient evidence to bring criminal charges against Chief Helfant. He noted the State of Vermont has a high standard before filing such criminal cases. State's Attorney Thibault still believes, however, that there is no clear confirmation Chief Helfant obtained indisputable search consent in these cases as the parties involved only testified after the charges against them were dropped. He did feel it was good that Chief Helfant is now instructing his officers to carry search consent cards that must be signed by a suspect before a search is conducted. This removes all ambiguity. Chief Helfant said body cameras do not always provide perfect audio and video of police encounters with the public. As he previously noted, an officer's sworn testimony used to be worth something. Chief Helfant said his point-of-view is different from State's Attorney Thibault's just as court justices often disagree on important legal matters. He does believe he can work with State's Attorney Thibault in the future.

Eric Blaisdell from the *Times Argus* asked if the Select Board members or Chief Helfant would release the results of the Criminal Justice Training Council investigation. Manager Schulz said the decision whether or not to share this information involves confidential personnel matters and this would have to be determined at a later time. Chief Helfant said he would abide by whatever the Select Board members decide regarding public disclosure.

Ms. Hill-Eubanks would like the Select Board members to keep community members better informed in future regarding the operations of the Northfield Police Department. Also, the raw data Chief Helfant provided earlier does not really disprove possible racial bias. She would like more information regarding the racial background of all his search subjects, etc. Chief Helfant doesn't believe the State of Vermont collects that type of data. State's Attorney Thibault confirmed there is no centralized state database for the tracking of such police activities. Establishing one would require the state legislature to provide sufficient funding, which it has not. Representative Donahue noted the Crime Research Group has collected such data over the past ten (10) years but this is limited to traffic stops. She agreed the cost factor is the main reason more expansive data is not collected on a regular basis. Chief Helfant noted he has not conducted any vehicle searches since he was hired by the Town of Northfield.

Mr. Brucken asked if the municipality was at higher risk of civil liability if Chief Helfant remained in his position. State's Attorney Thibault could not answer this question. Mr. Brucken felt the municipality should seek legal advice on this. He then asked if Chief Helfant's current situation would deter potential officers from choosing to work for the Northfield Police Department. Chair Maxwell noted that hiring qualified police officers is a difficult situation for all municipal and state law enforcement agencies in this part of the country. He added Chief Helfant is now in the process of hiring additional part-time officers and doesn't seem to be hindered in his efforts. Board member Morse noted the Northfield Police Department had to be recreated after the Vermont State Police intervened and arrested four (4) officers in March 1994 due to numerous local complaints of police misconduct and possible criminal behavior. The main problem now is that this is a small department with significant turnover due to limited opportunities for internal advancement. Many good officers have left in recent years to join larger municipal police departments or work for the State of Vermont. Board member Miller felt it has been difficult for some time to find qualified employees willing to work in rural Vermont. Board member Stevens cannot predict the future but he feels that Northfield doesn't have a problem getting new police officers. Board member Goodrich also has no concerns about Chief Helfant being able to recruit new police officers.

Lydia Petty also has some concerns about how this process has played out locally. She felt this public discussion should have occurred before the Select Board members had a letter sent to Governor Phil Scott asking him to intervene in this matter. The information available to the public has been incomplete and confusing so Ms. Petty is grateful for tonight's discussion. Chair Maxwell reiterated that this matter involves confidential personnel issues so most of the discussions the Select Board members have held on this situation have been in executive session as authorized by state law. The Brady/Giglio letter from State's Attorney Thibault was only received last month so he felt the Select Board members have acted in a timely manner. It is not easy to discuss personnel matters in a public setting without opening yourself up to civil liability. Chair Maxwell said he will make every attempt to keep the public informed in the future (when appropriate). He then asked the other Select Board members if they had any closing comments.

Board member Miller felt this was a murky issue and the Select Board members still have a lot to discuss. Board member Goodrich agreed and said she was appreciative of the large public turnout tonight. Board member Morse, who joined the Select Board in March 2020, felt this whole issue has been mismanaged by a number of those involved. He believed the Select Board should have communicated better with state officials from the beginning. However, nothing brought up tonight has undermined Board member Morse's confidence in the Northfield Police Department. We should be able to work with State's Attorney Thibault's office in future and procedures should be established to prevent this sort of situation from happening again. Board member Goodrich disagreed with Board member Morse, stating that the Select Board did try to contact Attorney General Donovan on a number of occasions early in the process but received no response. Chief Helfant came to Northfield with nearly thirty (30) years of unblemished service in law enforcement. These issues only arose after he was hired as Northfield Police Chief. Board member Goodrich believes the current situation can be worked through and that Northfield residents should have no concerns about their police department.

Board member Morse requested a five-minute recess at this time. There was no objection. The meeting resumed at 9:27 p.m.

IV. SET/ADJUST AGENDA. There were no changes to the posted agenda.

V. APPROVAL OF MINUTES

- a. **December 8, 2020 (Regular Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- b. **December 10, 2020 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- c. **December 15, 2020 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- d. **December 17, 2020 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- e. **December 19, 2020 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- f. **December 29, 2020 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- g. **January 5, 2021 (Budget Meeting).** Motion by Board member Morse, seconded by Board member Goodrich, to approve the minutes. **Motion passed 5-0-0.**
- h. **January 7, 2021 (Budget Meeting).** Motion by Board member Stevens, seconded by Board member Goodrich, to approve the minutes. **Motion passed 4-0-1, with Board member Morse abstaining.**

VI. APPROVAL OF BILLS

- a. **Approval of Warrant #13-21.** Motion by Board member Morse, seconded by Board member Stevens, to approve Warrant #13-21 in the amount of \$269,189.84. **Motion passed 5-0-0.**
- b. **Approval of Biweekly Payroll through December 27, 2020.** Motion by Board member Morse, seconded by Board member Stevens, to approve the biweekly payroll in the amount of \$138,534.13. **Motion passed 5-0-0.**

VII. SELECT BOARD

- a. **Select Board Approval of FY 2021/2022 Municipal Budget.** Manager Schulz said after numerous budget meetings, the Select Board is prepared to provide approval to the municipal budget for fiscal year 2021/2022 that will be presented to Northfield voters on Town Meeting Day (03/02/21). If approved, the estimated increase in the property tax rate would be 2.8%. This would mean a \$29.10 tax increase for a property valued at \$100,000; \$43.65 for a \$150,000 property; \$58.20 for a \$200,000 property; \$72.75 for a \$250,000 property; and \$87.30 for a \$300,000 property. Manager Schulz felt this was a fairly reasonable budget with most line item increases due to wage and benefit rises as specified in employee union contracts as well as cost-of-living adjustments. Much of these increases have been offset by other savings in some departments' personnel expenses. In addition, the municipal debt load has been reduced with the final payments made on number of bonds. Motion by Board member Goodrich, seconded by Board member Stevens, to approve the FY 2021/2022 municipal budget as presented by management. Board member Goodrich noted that since the COVID-19 pandemic has forced the cancellation of this year's Town Meeting open session, this budget will be discussed at the February 23, 2021 public hearing at which all ballot items will be subject to public comment. **Motion passed 5-0-0.**
- b. **Northfield Ambulance Service (NAS): Paramedical Level Service Concept.** Manager Schulz said NAS members have discussed for some time the concept of NAS being certified to provide paramedic services. Currently, when NAS first responders who do not have paramedic certification have a patient that requires medications, etc. that they are not allowed to administer, they need to contact another ambulance service so that a paramedic can be brought in. This is called a "paramedic intercept" and the municipality will budget \$9,000 to cover this expense in the next fiscal year. The cost to achieve this certification is about \$12,500 and the funds previously designated for paramedic intercept expense could be used to cover startup costs.

Manager Schulz felt this change would greatly benefit Northfield residents with hastened treatment of patients needed paramedic services, etc. Therefore, he felt any remaining balance of this expense could be absorbed in the NAS operations and maintenance (O&M) budget. Motion by Board member Goodrich, seconded by Board member Morse, to approve the paramedical level service concept for the Northfield Ambulance Service. Board member Goodrich wanted it understood this did not imply the hiring of additional NAS staff. Board member Miller has read the proposal and this does seem to benefit the community. He still has questions about the funding mechanism. Manager Schulz said although there would still be a need for paramedic intercepts when a NAS paramedic is not available, the number should be greatly reduced and this will provide significant budget savings. He added NAS is being reimbursed for conducting COVID-19 testing and that other COVID-19 repayments could be used as well. Board member Morse thought paramedic training was a two (2) year program. NAS Chief Lawton Rutter said we already have three (3) qualified paramedics on the NAS roster and additional NAS EMTs are prepared to take the training. He added that the State of Vermont protocols regarding ambulance services seem to be moving towards requiring that all have paramedical certification. Board member Stevens asked if NAS would be able to raise its rates with the new certification. Chief Rutter said the NAS rate structure is reviewed annually and the current rates now seem in line with what other area ambulance services charge. We will coordinate with our new billing agency on this. He added there could be increased revenue from providing additional services such as dispensing drugs that require paramedic certification. NAS also would be able to perform additional patient transfers during which a paramedic is required to be present. Board member Stevens asked about the need to purchase two (2) security safes for a total amount of \$1,500. Chief Rutter said these safes need to be installed in the ambulance units to store narcotics only to be administered by a paramedic, such as Morphine, Fentanyl, etc. Board member Morse asked if the municipality would need to adopt a policy regarding the storage of such strong narcotics. Chief Rutter said he does need to draft a controlled-substance storage policy for state submission. **Motion passed 5-0-0.**

- c. **Turkey Hill Maple Farm Lease.** Manager Schulz said the municipality entered into two (2) lease agreements with Turkey Hill Maple Farm (Howard Anderson, owner) that authorized tapping maple trees on municipal property for a per tap payment. According to a *Times Argus* article that appeared last month, Mr. Anderson approached the Berlin Select Board regarding a similar agreement but was refused as there was suspicion Mr. Anderson had already tapped some trees in the Berlin Town Forest without permission. This item was put on tonight's agenda to discuss the current agreement Northfield has with Turkey Hill Maple Farm. Manager Schulz warned that any consideration of contract renegotiations would have to be held in executive session. Board member Miller said he had requested this discussion in light of the newspaper article. He noted our agreements with Turkey Hill Maple Farm started in a similar manner with concerns that Mr. Anderson (perhaps inadvertently) already had been tapping trees on Northfield municipal property. Board member Miller noted some Northfield residents had contacted the municipality a couple years ago with concerns Mr. Anderson had violated his lease agreement by using too many taps, building an unauthorized structure, etc. Board member Miller doesn't believe these allegations were fully investigated and the Select Board members may wish to cancel these contracts if there has been misrepresentation. He also doesn't feel it was correct that bids from possible other interested parties weren't solicited at the time. Board member Morse asked if Manager Schulz had been contacted by the Town of Berlin regarding their concerns. Manager Schulz said he has heard from a member of their Conservation Commission. He sent over copies of Northfield's current agreements with Turkey Hill Maple Farm and there has been no further communication. Board member Morse asked if the Northfield Conservation Commission (NCC) has weighed in regarding this matter. Board member Miller has spoken to NCC Chair Deborah Zuario and he learned NCC members share some of his concerns. Board member Morse asked if Turkey Hill Maple Farm made use of its own property for maple tapping. Board member Miller said they started with tapping just their own trees until it was suspected their operations had encroached on adjoining Northfield municipal property. It now is believed the same thing happened on their lands bordering the Berlin Town Forest. Board member Stevens thinks someone authorized by the municipality should inspect the leased property to see what's going on. Board member Goodrich agreed there should be a written report from a hired forester. Manager Schulz believed local forester Rose Beatty did inspect the property on our behalf a couple years ago but cannot remember the details. He also believes Utility Superintendent Patrick DeMasi also has inspected the site as this property, known as "Dustin Pasture," officially belongs to the Northfield Water Department. Mr. Bright believes using a drone might be useful to determine the scope of the maple tapping operation, the number of taps installed, how much municipal property is involved, etc. The tap count should be verified to make sure the municipality is receiving full payment. Ms. Petty felt it also should be determined whether this lease agreement is the best use of this property. There should be some dialogue with the Town of Berlin regarding the possibility of a joint trail system in the area. Board member Miller noted Dustin's Pasture is a wooded property considered part of the Town Forest but not contiguous with the main area adjacent to Paine Mountain. Board member Morse agreed more information is needed along with a discussion of whether this property should be set aside for recreational purposes. After further discussion, it was Select Board consensus that Manager Schulz should have the site re-inspected and a written report provided to the Select Board within ninety (90) days.

- d. **Main Street Bridge Replacement Project.** Manager Schulz said the Vermont Agency of Transportation (VTrans) has had this bridge on their priority list for extensive rehabilitation or replacement for some time. A project scoping had been completed and VTrans would like to present their recommendations to the Select Board members so it can be determined how best to proceed. Manager Schulz has tentatively scheduled this for the regular meeting of February 9, 2021. The meeting will be well-publicized ahead of time as this project, whichever course is taken, will have a great impact on adjacent businesses as well as the general population. Board member Miller feels bridge replacement probably would be the best course. Board member Stevens wondered how this project might affect the proposed removal of the nearby Cross Brothers Dam. Manager Schulz said there has been some conversation between the groups involved in these projects. It is hoped the dam would be removed before the construction phase of the bridge project begins. Board member Goodrich asked who would pay to have the utility lines in the area relocated. Manager Schulz said that expense would be folded into the total cost of the project. The State of Vermont is expected to pay between ninety to ninety-five percent (90-95%) of total project costs. Funds have been set aside in the FY 2021-2022 budget for the expected local share. Board member Morse would like to see some bridge designs before agreeing to anything. Manager Schulz said the presentation of the project scope is only the first step in the process. VTrans will want Select Board feedback regarding the extent of the project, which will include traffic detour options, etc. After the Select Board members have provided a go-ahead to the concept, the project engineers will produce plans at various stages of the project for Select Board review and public comment.

VIII. TOWN MANAGER'S REPORT

- a. **Connecticut Attorneys Title Insurance Company Lawsuit.** Manager Schulz said the Northfield Town Clerk and the town clerks of eight (8) other Vermont communities have been sued by an out-of-state attorneys' group for restricting access to public records with reduced hours, etc. due to the COVID-19 pandemic. Northfield has engaged an attorney to represent us in the lawsuit and this expense will be shared with other defendants. Two (2) hearings with a judge already have been held and the Vermont communities are asking for the suit to be dismissed as they were merely following Governor Scott's COVID-19 recommendations. It is unsure how far the lawsuit will proceed but it is felt the Town Clerks' attorneys have a strong case for summary dismissal.
- b. **South Main Stormwater Project.** Manager Schulz said the Select Board has discussed this proposed project several times recently and one remaining question is how the local share of project costs will be budgeted. To date, preliminary engineering costs have been split evenly between the Highway Department and Sewer Department. However, the Northfield Utility Commissions have been trying to determine whether a different allocation would be more equitable. Board member Morse would like any funding scheme decided upon before the municipality asks Northfield voters for bonding authority. It also needs to be clearly explained to residents living on the backroads how this downtown project would benefit the whole community. Manager Schulz said Superintendent DeMasi is working on figuring out how much the Wastewater Treatment Facility (WWTF) would reap in cost savings if stormwater is diverted away from it to be treated elsewhere. He should have this information for the next Utility Commissions Joint Meeting (02/01/21).

IX. BOARD MEMBERS' COMMENTS, CONCERNS, QUESTIONS

- a. **Select Board Resolution Condemning Attack on US Capitol.** Board member Stevens would like the Select Board to adopt a resolution that would condemn last week's attack on the US Capitol building. Board member Morse asked who would provide the wording for this resolution and how it could be written so some people won't feel their First Amendment rights are in jeopardy. Board member Stevens said he was not talking about the protests that proceeded the attack but rather the violence itself that resulted in several deaths, vandalism, looting of a government building, etc. Neither Board member Morse or Goodrich saw much value in such a resolution as it might only further enflame the situation. After additional discussion, this matter was tabled for the time being. Any Select Board member who would like to pursue this matter further is encouraged to provide a draft resolution at a future meeting for review and possible approval.

X. PUBLIC PARTICIPATION (UNSCHEDULED).

There was none.

XI. ADJOURNMENT.

Motion by Board member Morse, seconded by Board member Stevens, to adjourn.
Motion passed 5-0-0.

The Board adjourned at 11:00 p.m.

Respectfully submitted,

Kenneth L. McCann

Kenneth L. McCann, Acting Clerk

An audio recording of this meeting is available in the Town Manager's Office.

These minutes were revised and approved at the regular Select Board meeting of January 26, 2021.